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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/667,876 | 09/22/2003 | Bryan Taylor | 0000PCO/0509820 | 1154 |
| 26874 | 7590 | 09/20/2006 | EXAMINER | |
| FROST BROWN TODD, LLC 2200 PNC CENTER 201 E. FIFTH STREET CINCINNATI, OH 45202 | | | PICO, ERIC E | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3654 | |

DATE MAILED: 09/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/667,876 | TAYLOR ET AL. | |
| | Examiner | Art Unit | |
| | Eric Pico | 3654 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 10 July 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 45-64 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 45-64 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

| | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim(s) 45-63 is/are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

2. Claim 45 recites the limitation "said upper portion" in claim 45, line 11. There is insufficient antecedent basis for this limitation in the claim.
3. Claim 55 recites the limitation "said upper portion" in claim 55, line 12. There is insufficient antecedent basis for this limitation in the claim.
4. Claim 55 recites the limitation "said portion" in claim 55, line 13. There is insufficient antecedent basis for this limitation in the claim. The office will examine said portion to by synonymous with the portion of the concrete floor.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim(s) 64 is/are rejected under 35 U.S.C. 102(b) as being anticipated by Kreysler et al. U.S. Patent No. 5701706.

7. **Regarding claim 64**, Kreysler et al. discloses a service bay floor although not a lift bay floor per se, Kreysler et al. has all the structure set forth in the claims. The intended use in the preamble adds no patentable weight to the claims.

8. Kreysler et al. discloses a reinforced concrete service bay floor, comprising: a concrete service bay floor C; and a plurality of elongated members, referred to as tank attached reinforcement 44, encased within the concrete service bay floor C, the members 44 being horizontally spaced apart and extending outwardly from an upper portion of a housing, referred to as tank T.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim(s) 45-62 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Fletcher U.S. Patent No. 5404968 in view of Mosby U.S. Patent No. 6152652.

11. **Regarding claim 45**, Fletcher discloses an inground lift for use in a lift bay having a poured lift bay floor, shown in Figure 1, the lift comprising: a housing, referred to as front and rear cavity 12, 16, comprising a first portion, referred to as track means 20 and spider-like structure 36, configured to be disposed adjacent the lift bay floor, the

housing 12, 16 defining an interior volume and an exterior; vertically moveable jacks, referred to as screw lift assemblies 24, 28, at least partially disposed within the interior volume and carried by the first portion, the vertically moveable jacks 24, 28 having a distal end, referred to as wheel interface means 74, 76, configured to engage a vehicle; and a plurality of horizontally spaced apart members extending from an upper portion, not numbered but shown extending from spider-like structure 36 into the support means 38 and recess 34.

12. Fletcher is silent concerning a plurality of horizontally spaced apart members extending outwardly from an upper portion, the members configured to be surrounded by material comprising the lift bay floor as the material is poured to form the lift bay floor, whereby the members provide strength to the lift bay floor.

13. Mosby teaches a plurality of horizontally spaced apart members, referred to as ties 52, 54, 56, loops 60, 62, 64, and U-bars 70, 72, 74, extending outwardly from an upper portion, referred to as walls 24, 26, the members 52, 54, 56, 60, 62, 64, 70, 72, 74 configured to be surrounded by material comprising a floor as the material is poured to form the floor, whereby the members 52, 54, 56, 60, 62, 64, 70, 72, 74 provide strength to the floor.

14. It would have been obvious to one of ordinary skill in the art at the time of the invention to extend a plurality of horizontally spaced apart members as taught by Mosby outwardly from an upper portion disclosed by Fletcher to provide strength to the lift bay floor.

15. **Regarding claim 46,** Fletcher is silent concerning members being elongated.

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16. Mosby teaches members 52, 54, 56, 60, 62, 64, 70, 72, 74 being elongated.
17. It would have been obvious to one of ordinary skill in the art at the time of the invention to extend a plurality of horizontally spaced apart members being elongated as taught by Mosby outwardly from the first portion disclosed by Fletcher to provide strength to the lift bay floor.
18. **Regarding claim 47,** Fletcher is silent concerning members comprise rebar.
19. Mosby teaches members 52, 54, 56, 60, 62, 64, 70, 72, 74 comprise rebar.
20. It would have been obvious to one of ordinary skill in the art at the time of the invention to extend a plurality of horizontally spaced apart members comprised of rebar as taught by Mosby outwardly from the first portion disclosed by Fletcher to provide strength to the lift bay floor.
21. **Regarding claim 48,** Fletcher is silent concerning a plurality of members comprise a V shape.
22. Mosby teaches a plurality of members comprise a V shape, created by ties 54 and loop 62.
23. It would have been obvious to one of ordinary skill in the art at the time of the invention to extend a plurality of horizontally spaced apart members comprised of a V shape as taught by Mosby outwardly from the first portion disclosed by Fletcher to provide strength to the lift bay floor.
24. **Regarding claim 49,** Fletcher is silent concerning an elongated member connected to a plurality of V shaped elongated members, created by ties 54 and loop 62.

25. Mosby teaches elongated members 52, 54, 56, 60, 62, 64, 70, 72, 74 connected to a plurality of V shaped elongated members.

26. It would have been obvious to one of ordinary skill in the art at the time of the invention to extend a plurality of horizontally spaced apart members comprised of elongated members connecting V shape elongated members as taught by Mosby outwardly from the first portion disclosed by Fletcher to provide strength to the lift bay floor.

27. **Regarding claim 50,** Fletcher is silent concerning a plurality of members comprise a C shape.

28. Mosby teaches a plurality of members 52, 54, 56, 60, 62, 64, 70, 72, 74 comprise a C shape.

29. It would have been obvious to one of ordinary skill in the art at the time of the invention to extend a plurality of horizontally spaced apart members comprised of a C shape as taught by Mosby outwardly from the first portion disclosed by Fletcher to provide strength to the lift bay floor.

30. **Regarding claim 51,** Fletcher is silent concerning a plurality of members comprise a C shape opening laterally outwardly.

31. Mosby teaches a plurality of members comprise a C shape opening laterally outwardly, created by ties 52 and loop 60.

32. It would have been obvious to one of ordinary skill in the art at the time of the invention to extend a plurality of horizontally spaced apart members comprised of a C

shape opening laterally outwardly as taught by Mosby outwardly from the first portion disclosed by Fletcher to provide strength to the lift bay floor.

33. **Regarding claim 52,** Fletcher is silent concerning a plurality of members comprise a C shape opening downwardly.

34. Mosby teaches a plurality of members comprise a C shape opening downwardly, created by tie 54 and loop 60.

35. It would have been obvious to one of ordinary skill in the art at the time of the invention to extend a plurality of horizontally spaced apart members comprised of a C shape opening downwardly as taught by Mosby outwardly from the first portion disclosed by Fletcher to provide strength to the lift bay floor.

36. **Regarding claim 53,** Fletcher is silent concerning a plurality of members comprise a C shape opening upwardly, created by tie 54 and loop 62.

37. Mosby teaches a plurality of members comprise a C shape opening upwardly.

38. It would have been obvious to one of ordinary skill in the art at the time of the invention to extend a plurality of horizontally spaced apart members comprised of a C shape opening upwardly as taught by Mosby outwardly from the first portion disclosed by Fletcher to provide strength to the lift bay floor.

39. **Regarding claim 54,** Fletcher discloses jack 24 is horizontally moveable.

40. **Regarding claim 55,** Fletcher discloses a lift bay floor; an inground lift comprising a housing 12, 16 comprising a first portion 20, 36 configured to be disposed adjacent the lift bay floor, the housing 12, 16 defining an interior volume and an exterior; vertically moveable jacks 24, 28 at least partially disposed within the interior volume and

carried by the first portion 20, 36, the vertically moveable jacks 24, 28 having a distal end 74, 76 configured to engage a vehicle; and a plurality of horizontally spaced apart members extending from an upper portion, not numbered but shown extending from spider-like structure 36 into the support means 38 and recess 34.

41. Fletcher is silent concerning a concrete lift bay floor and a plurality of horizontally spaced apart members extending outwardly from an upper portion, the members being encased in a portion of the concrete floor, whereby the portion of the concrete floor comprises reinforced concrete.

42. Mosby teaches a concrete floor and a plurality of horizontally spaced apart members 52, 54, 56, 60, 62, 64, 70, 72, 74 extending outwardly from a first portion 24, 26, the members 52, 54, 56, 60, 62, 64, 70, 72, 74 being encased in a portion of the concrete floor, whereby the portion of the concrete floor comprises reinforced concrete.

43. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a concrete floor as taught by Mosby to the lift bay disclosed by Fletcher and extend a plurality of horizontally spaced apart members as taught by Mosby outwardly from the first portion disclosed by Fletcher to provide strength to the lift bay floor.

44. **Regarding claim 56,** Fletcher is silent concerning members being elongated.

45. Mosby teaches members 52, 54, 56, 60, 62, 64, 70, 72, 74 being elongated.

46. It would have been obvious to one of ordinary skill in the art at the time of the invention to extend a plurality of horizontally spaced apart members being elongated as

taught by Mosby outwardly from the first portion disclosed by Fletcher to provide strength to the lift bay floor.

47. **Regarding claim 57**, Fletcher is silent concerning members comprise rebar.

48. Mosby teaches members 52, 54, 56, 60, 62, 64, 70, 72, 74 comprise rebar.

49. It would have been obvious to one of ordinary skill in the art at the time of the invention to extend a plurality of horizontally spaced apart members comprised of rebar as taught by Mosby outwardly from the first portion disclosed by Fletcher to provide strength to the lift bay floor.

50. **Regarding claim 58**, Fletcher is silent concerning a plurality of members comprise a V shape.

51. Mosby teaches a plurality of members comprise a V shape, created by ties 54 and loop 62.

52. It would have been obvious to one of ordinary skill in the art at the time of the invention to extend a plurality of horizontally spaced apart members comprised of a V shape as taught by Mosby outwardly from the first portion disclosed by Fletcher to provide strength to the lift bay floor.

53. **Regarding claim 59**, Fletcher is silent concerning an elongated member connected to a plurality of V shaped elongated members, created by ties 54 and loop 62.

54. Mosby teaches elongated members 52, 54, 56, 60, 62, 64, 70, 72, 74 connected to a plurality of V shaped elongated members.

55. It would have been obvious to one of ordinary skill in the art at the time of the invention to extend a plurality of horizontally spaced apart members comprised of elongated members connecting V shape elongated members as taught by Mosby outwardly from the first portion disclosed by Fletcher to provide strength to the lift bay floor.

56. **Regarding claim 60,** Fletcher is silent concerning a plurality of members comprise a C shape.

57. Mosby teaches a plurality of members 52, 54, 56, 60, 62, 64, 70, 72, 74 comprise a C shape.

58. It would have been obvious to one of ordinary skill in the art at the time of the invention to extend a plurality of horizontally spaced apart members comprised of a C shape as taught by Mosby outwardly from the first portion disclosed by Fletcher to provide strength to the lift bay floor.

59. **Regarding claim 61,** Fletcher discloses the lift bay floor has a nominal thickness, referred to as recess 34, distal to the upper portion, the lift bay floor having a larger thickness, referred to as support means 38, proximal the upper portion.

60. **Regarding claim 62,** Fletcher discloses the thickness of the lift bay floor slopes from the nominal thickness 34 to the increased thickness 38.

61. Claim(s) 63 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Fletcher U.S. Patent No. 5404968 in view of Mosby U.S. Patent No. 6152652 as applied to claim 55 above, and further in view of Kreysler et al. U.S. Patent No. 5701706.

62. **Regarding claim 63,** Fletcher is silent concerning a pea gravel disposed adjacent the inground lift and a rigid layer interposed between a portion of the pea gravel and the lift bay floor, underlying a plurality of the plurality of members.
63. Kreysler et al. teaches pea gravel 42 disposed adjacent a service bay unit U and a rigid layer, referred to as cured concrete cap interposed between a portion of the pea gravel 42 and a floor, underlying a plurality of members, referred to as tank attached reinforcement 44.
64. It would have been obvious to one of ordinary skill in the art at the time of the invention to dispose pea gravel as taught by Kreysler et al. adjacent to the inground lift disclosed by Fletcher and interpose a rigid layer between a portion of the pea gravel as taught by Kreysler et al. and the lift bay floor disclosed by Fletcher to provide a self compacting aggregate, facilitating the expansion of the apparatus and firm support.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Pico whose telephone number is 571-272-5589. The examiner can normally be reached on 6:30AM - 3:00PM M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Matecki can be reached on 571-272-6951. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EEP



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